

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

**SUMMARY ORDER**

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO SUMMARY ORDERS FILED AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY THIS COURT'S LOCAL RULE 32.1 AND FEDERAL RULE OF APPELLATE PROCEDURE 32.1. IN A BRIEF OR OTHER PAPER IN WHICH A LITIGANT CITES A SUMMARY ORDER, IN EACH PARAGRAPH IN WHICH A CITATION APPEARS, AT LEAST ONE CITATION MUST EITHER BE TO THE FEDERAL APPENDIX OR BE ACCOMPANIED BY THE NOTATION: "(SUMMARY ORDER)." A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF THAT SUMMARY ORDER TOGETHER WITH THE PAPER IN WHICH THE SUMMARY ORDER IS CITED ON ANY PARTY NOT REPRESENTED BY COUNSEL UNLESS THE SUMMARY ORDER IS AVAILABLE IN AN ELECTRONIC DATABASE WHICH IS PUBLICLY ACCESSIBLE WITHOUT PAYMENT OF FEE (SUCH AS THE DATABASE AVAILABLE AT [HTTP://WWW.CA2.USCOURTS.GOV/](http://www.ca2.uscourts.gov/)). IF NO COPY IS SERVED BY REASON OF THE AVAILABILITY OF THE ORDER ON SUCH A DATABASE, THE CITATION MUST INCLUDE REFERENCE TO THAT DATABASE AND THE DOCKET NUMBER OF THE CASE IN WHICH THE ORDER WAS ENTERED.

At a stated term of the United States Court of Appeals  
for the Second Circuit, held at the Daniel Patrick Moynihan  
United States Courthouse, 500 Pearl Street, in the City of  
New York, on the 12th day of October, two thousand seven.

**PRESENT:**

HON. JOSÉ A. CABRANES,  
HON. SONIA SOTOMAYOR,  
HON. RICHARD C. WESLEY,  
Circuit Judges.

GUERRIER PRINTEMPS,  
Petitioner,

v.

PETER D. KEISLER,<sup>1</sup>  
ACTING U.S. ATTORNEY GENERAL  
Respondent.

06-5903-ag  
NAC

<sup>1</sup> Pursuant to Federal Rule of Appellate Procedure 43 (c) (2), Acting Attorney General Peter D. Keisler is automatically substituted for former Attorney General Alberto R. Gonzales as a respondent in this case.

1  
2 **FOR PETITIONERS:** **Glenn L. Formica, New Haven,**  
3 **Connecticut**  
4  
5 **FOR RESPONDENT:** **Peter D. Keisler, Assistant Attorney**  
6 **General, Civil Division, Emily Anne**  
7 **Radford, Assistant Director, Terri**  
8 **Leon- Benner, Trial Attorney, Office**  
9 **of Immigration Litigation, Civil**  
10 **Division, U.S. Department of**  
11 **Justice, Washington, D.C.**  
12

13 UPON DUE CONSIDERATION of this petition for review of a  
14 Board of Immigration Appeals ("BIA") decision, it is hereby  
15 ORDERED, ADJUDGED, AND DECREED that the petition for review  
16 is DENIED.

17 Petitioner Guerrier Printemps, a native and citizen of  
18 Haiti, seeks review of a December 5, 2006 order of the BIA  
19 affirming the June 21, 2005 decision of Immigration Judge  
20 ("IJ") Michael W. Straus, denying his application for  
21 asylum, withholding of removal, and relief under the  
22 Convention Against Torture ("CAT"). In re Guerrier  
23 Printemps, No. A78 617 201 (B.I.A. Dec. 5, 2006), aff'g No.  
24 A78 617 201 (Immig. Ct. Hartford, Conn. June 21, 2005). We  
25 assume the parties' familiarity with the underlying facts  
26 and procedural history in this case.

27 Here, the IJ rested his decision primarily on an  
28 adverse credibility determination but also provided

1 Printemps' failure to meet his burden of proof as an  
2 alternative ground for denying Printemps' application. The  
3 BIA affirmed the IJ's decision but addressed only the IJ's  
4 adverse credibility determination. Because the BIA did not  
5 explicitly "adopt and affirm" the IJ's decision in its  
6 entirety, it is not clear whether the BIA intended to affirm  
7 the IJ's burden of proof finding or even considered that  
8 portion of the IJ's decision. Accordingly, we review only  
9 that portion of the IJ's decision that the BIA discussed and  
10 expressly affirmed-the IJ's finding that Printemps was not  
11 credible. See *Xue Hong Yang v. U.S. Dep't of Justice*, 426  
12 F.3d 520, 522 (2d Cir. 2005).

13 This Court reviews the agency's factual findings,  
14 including adverse credibility determinations, under the  
15 substantial evidence standard. See, e.g., *Zhou Yun Zhang v.*  
16 *INS*, 386 F.3d 66, 73 & n.7 (2d Cir. 2004), overruled in part  
17 on other grounds by *Shi Liang Lin v. U.S. Dep't of Justice*,  
18 494 F.3d 296(2d Cir. 2007) (en banc).

19 Here, the IJ's finding that Printemps was not credible  
20 was supported by substantial evidence. The IJ based his  
21 adverse credibility determination largely on two significant  
22 discrepancies between the statements Printemps made at his

1        asylum interview and the testimony he gave at his hearing.  
2        See *Maladho Djehe Diallo v. Gonzales*, 445 F.3d 624, 632 (2d  
3        Cir. 2006). First, Printemps stated at his asylum interview  
4        that he had been arrested in May 2000 as well as in  
5        September 2000, while he testified at his hearing that he  
6        had only been arrested once. Second, Printemps testified at  
7        his hearing that his brother had been killed by the Lavalas  
8        Party in Haiti in 2001 because of Printemps' political  
9        activities, but he failed to mention his brother's death  
10       during his asylum interview. Our review of the record gives  
11       us no reason to doubt the reliability of the record of  
12       Printemps' asylum interview, and such substantial  
13       inconsistencies were a proper basis for the IJ's adverse  
14       credibility finding.

15       Moreover, the IJ offered Printemps an opportunity to  
16       explain these discrepancies, but found Printemps'  
17       explanations inadequate and was not obligated to credit  
18       them. See *Majidi v. Gonzales*, 430 F.3d 77, 80-81 (2d Cir.  
19       2005). In addition, the IJ reasonably found that, even when  
20       pressed for detail, Printemps' testimony was vague and  
21       lacking in sufficient detail with respect to a beating  
22       incident he allegedly suffered in November 2000. Cf. *Jin*

1     Chen v. U.S. Dep't of Justice, 426 F.3d 104, 114 (2d Cir.  
2     2005).

3             Taken together, these discrepancies and omissions were  
4     a sufficient basis for the IJ's adverse credibility  
5     determination, and the IJ properly denied Printemps asylum  
6     claim on that basis. Tu Lin v. Gonzales, 446 F.3d 395, 402  
7     (2d Cir. 2006) (internal citations omitted). Because the  
8     only evidence that Printemps had been or would be subjected  
9     to persecution or torture in Haiti depended upon his  
10    credibility, the IJ also properly denied Printemps'  
11    withholding of removal and CAT claims. See Paul v.  
12    Gonzales, 444 F.3d 148, 156 (2d Cir. 2006).

13            For the foregoing reasons, the petition for review is  
14    DENIED. The pending motion for a stay of removal in this  
15    petition is DISMISSED as moot.

16                           FOR THE COURT:  
17                           Catherine O'Hagan Wolfe, Clerk  
18

19                           By: \_\_\_\_\_  
20